

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines,
Emergency Engines, and Air Curtain Incinerators
(LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501) (AQ274)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This proposed rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits to be developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the day specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§305. Construction and Operation

A. No construction or operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

- a. the name of the owner or operator;
- b. the physical location of the well;
- c. the date(s) and expected duration of the activity;
- d. a description of the processes and equipment involved, including control measures, if required; and
- e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be specified.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

- 1. the date(s) and duration of the testing event;
- 2. the actual volumes of natural gas flared and natural gas released, as well as the total amount of crude oil and condensate produced; and
- 3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be

\$300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H₂S) content of no more than 0.25 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

- a. the name of the owner or operator;
- b. the type of, and reason for, the activity;
- c. the physical location;
- d. the date(s) and expected duration of the activity;
- e. a description of the processes and equipment involved, including control measures, if required;
- f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be specified; and

g. the approximate H₂S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;
2. the actual volumes of natural gas flared and natural gas released; and
3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

- a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and
- b. nonroad engines, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil,

facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for a period longer than 6 consecutive minutes, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil

delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition (CI) Internal Combustion Engines

a. Each emergency stationary CI internal combustion engine (ICE) that commences construction after July 11, 2005, and that meets any of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d):

i. the stationary CI ICE is manufactured after April 1, 2006, and is not a fire pump engine;

ii. the stationary CI ICE is manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006; or

iii. the stationary CI ICE is modified or reconstructed after July 11, 2005.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4219, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

2. 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition (SI) Internal Combustion Engines

a. Each emergency stationary SI ICE that commences construction after June 12, 2006, and that meets either of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f):

i. the stationary SI ICE is manufactured on or after January 1, 2009; or

ii. the stationary SI ICE is modified or reconstructed after June 12, 2006.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4248, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

G. National Emissions Standards for Hazardous Air Pollutants

1. Existing Emergency Stationary Reciprocating Internal Combustion Engine (RICE)

a. For a stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of hazardous air pollutant (HAP) emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before December 19, 2002.

b. For a stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

c. For a stationary RICE located at an area source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

d. A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

e. In accordance with 40 CFR 63.6590(b)(3), no initial notification is necessary for an existing emergency stationary RICE.

2. New or Reconstructed Emergency Stationary RICE

a. New Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

b. Reconstructed Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

c. Each new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions shall comply with the initial notification requirements of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. In accordance with 40 CFR 63.6645(f), the notification shall include the information in 40 CFR

63.9(b)(2)(i) - (v), a statement that the stationary RICE has no additional requirements, and an explanation of the basis of the exclusion.

d. Each new or reconstructed stationary RICE that is located at an area source or that is an emergency stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions shall meet the requirements of 40 CFR 60, Subpart IIII for CI engines or 40 CFR 60, Subpart JJJJ for SI engines. No further requirements apply for such engines under 40 CFR 63.

3. Terms used in this Subsection are defined in 40 CFR 63.6675.

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713.00 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

- a. has a manufacturer's rated capacity greater than 10 tons per hour;
- b. is operated at a commercial, industrial, or institutional facility;
- c. combusts 100 percent yard waste, defined as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands;
- d. incinerates waste collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or
- e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

C. Operating Requirements

1. Visible Emissions

- a. Opacity from the ACI shall not exceed 20 percent, except for a 30-minute start-up period once per day during which opacity shall not exceed 35 percent.
- b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or combinations thereof, that passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.
- c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

- a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.
- b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

- a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.
- b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.
- c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8

a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. Annual operation of the ACI shall be limited to no more than 1,500 hours per year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is \$713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$478, if fee number 1520 is applicable, or \$143, if fee number 1722 is applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. – B.8. ...

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, For each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, No construction, modification, or operation of a facility which ultimately may result in an initiation of, or an

increase in₂ emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the ~~permit application has been approved, an appropriate permit fee~~ has been paid (in accordance with LAC 33:III.Chapter 2), and a permit (certificate of approval) has been issued by the permitting authority.

3. – 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 34:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULESLOG #: AQ274

Person

Preparing

Statement: Bryan D. Johnston
Phone: (225) 219-3118Dept.: Department of Environmental Quality
Office: Office of Environmental Services

Return

Address: P.O. Box 4313
Baton Rouge, LA 70821-4313

Rule

Title: Regulatory Permits for Oil and Gas Well
Testing, Release of Natural Gas from
Pipelines, Emergency Engines, and Air
Curtain Incinerators (LAC 33:III.301, 303,
305, 307, 309, 311, 313, and 501)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no costs to local government units or to state agencies. The required notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. This permitting mechanism should increase efficiency of the department.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No increase in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required if a permit had been sought and issued pursuant to LAC 33:III.501, or another approval mechanism (e.g., variance) had been employed, to authorize air emissions from the activity covered by the regulatory permit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Use of a notification form specifically tailored to the activity addressed by the regulatory permit should allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, and delay costs will therefore be avoided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The "Purpose," "Requirements and Limitations of Regulatory Permits," and "Construction and Operation" Sections of the proposed rule will outline the various requirements and limitations imposed by R.S. 30:2054(B)(9) on all regulatory permits to be developed by the department. The "Oil and Gas Well Testing" regulatory permit will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. The "Release of Natural Gas from Pipelines and Associated Equipment" regulatory permit will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. The "Emergency Engines" regulatory permit will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. The "Portable Air Curtain Incinerators" regulatory permit will authorize air emissions from portable air curtain incinerators, as well as from the engine that drives the incinerator's fan mechanism and its associated storage tank.

The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Senate Bill No. 209 of the 2006 Regular Session was signed by Governor Blanco on June 2, 2006, as Act 115. The Act, which became effective on August 15, 2006, allows LDEQ to develop regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). Regulatory permits are permits that are granted automatically when all application requirements are met in a notification of the activity submitted to the department. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019—Promulgation of rules and regulations.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

This proposed rule will not result in any net increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ____ Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

No costs to state agencies are anticipated as a result of this proposed rule.

COSTS	FY 07-08	FY 08-09	FY 09-10
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." Because the notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms, this permitting mechanism should increase efficiency of the department.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 07-08	FY 08-09	FY 09-10
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are required to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local governmental units is anticipated.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no costs or savings to local governmental units; so no funding is needed.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary ... in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required if a permit had been sought and issued pursuant to LAC 33:III.501, or another approval mechanism (e.g., variance) had been employed, to authorize air emissions from the activity covered by the regulatory permit.

REVENUE INCREASE/DECREASE	FY 07-08	FY 08-09	FY 09-10
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This question is not applicable.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Any applicant seeking approval to conduct an activity resulting in air emissions that can be authorized by a regulatory permit will be affected by the proposed action.

Applicants for any regulatory permit will be required to submit a notification form specifically tailored to the activity addressed by the regulatory permit. This notification form will be in place of a more generic permit application and should not require additional time to complete.

Use of a notification form specifically tailored to the activity addressed by the regulatory permit should also allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, and delay costs will therefore be avoided.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impacts on receipts or income will result.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition or employment in the public or private sector.